

EXHIBIT GC025

CAUSE NO. 22-CV-0675

SALT & PEPPER RESTAURANTS, INC.	§	IN THE DISTRICT COURT
	§	
<i>Plaintiff,</i>	§	
	§	
VS.	§	GALVESTON COUNTY, TEXAS
	§	
TIGHT ENDS SPORTS BAR & GRILL, LLC	§	
and TIMOTHY DUNGAN	§	
	§	
<i>Defendants.</i>	§	58TH JUDICIAL DISTRICT

PLAINTIFF'S MOTION FOR SUBSTITUTED SERVICE

Plaintiff Salt & Pepper Restaurants, Inc. ("***Plaintiff***") files this Motion for Substituted Service of citation on Defendant Timothy Dungan ("***Dungan***") as prescribed by Rule 106 of the Texas Rules of Civil Procedure and, in support thereof, respectfully states as follows:

FACTUAL BACKGROUND

Plaintiff filed this lawsuit against Dungan and his co-defendant, Tight Ends Sports Bar & Grill, LLC ("***Tight Ends***"), for breach of contract. Plaintiff hired a private process server who has made numerous attempts to serve Dungan at his home address: 6000 Columbus Avenue, Apt. 1101, Plano, Texas 75024.¹ The process server, however, has not been able to effectuate service on Dungan, leaving Plaintiff with no choice but to request that the Court allow it to serve Dungan through alternative means.

RELIEF REQUESTED

Plaintiff requests that the Court issue an Order authorizing substituted service of the citation and Petition as prescribed by Rule 106(b) of the Texas Rules of Civil Procedure by delivering a true and correct copy of the citation and Petition to anyone over the age of sixteen

¹ The process server's attempts to effectuate service on Mr. Dungan are described in the Affidavit attached hereto as **Exhibit A**.

(16) residing at 6000 Columbus Avenue, Apt. 1101, Plano, Texas 75024, or by affixing a copy of the citation and Petition on the front door at that address. As set forth in Exhibit A, that location is Dungan's usual place of abode or a place where he can probably be found. Rule 106(b) permits the Court to authorize substituted service on Dungan at the address above based on the facts set forth in Exhibit A.

PRAYER

Plaintiff Salt & Pepper Restaurants, Inc. prays that the Court grant this Motion and order that Plaintiff may effectuate service pursuant to Texas Rule of Civil Procedure 106(b) by delivering a copy of the citation and a copy of the petition to anyone over the age of sixteen residing at 6000 Columbus Avenue, Apt. 1101, Plano, Texas 75024, or by affixing a copy of the citation and Petition on the front door at that address, along with any such other and further relief Plaintiff may be justly entitled to.

Respectfully submitted,

GRAY REED

By: /s/ Preston T. Kamin
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ATTORNEYS FOR PLAINTIFF

EXHIBIT A

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	§	
<i>Plaintiff,</i>	§	
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VS.	§	GALVESTON COUNTY, TEXAS
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TIGHT ENDS SPORTS BAR & GRILL, LLC	§	
and TIMOTHY DUNGAN	§	
	§	
<i>Defendants.</i>	§	58TH JUDICIAL DISTRICT

AFFIDAVIT IN SUPPORT OF MOTION FOR SUBSTITUTED SERVICE

On this day, before me, the undersigned authority, personally appeared Guy Connelly, known to me to be the person whose name is subscribed hereto and under oath, states:

“My name is **GUY CONNELLY**. I am over eighteen (18) years of age, and I am fully competent to testify to the matters stated herein. I am authorized and certified by the Texas Supreme Court under Rule 103 of the Texas Rules of Civil Procedure to serve process. I have personal knowledge of the facts and statements contained in this affidavit, and the facts stated herein are true and correct.

It is impractical to secure service of process on defendant Timothy Dungan, in the above entitled and numbered cause, in person, a true and correct copy of the Citation with the date of delivery endorsed and with a copy of the petition attached thereto. Personal service is impractical because said defendant absents herself and thereby evades service of said Citation.

I believe the most reasonable, effective way to give said defendant actual notice of this suit is to deliver a copy of said documents, the Citation and a copy of Plaintiff's Original Petition, to anyone over the age of sixteen (16), or by affixing to the front door at the defendant's usual place of abode, 6000 Columbus Avenue, Apt. 1101, Plano, Texas 75024.

I have attempted to personally deliver said documents upon the defendant on the following days and times, but have been unsuccessful for the following reasons:

On Saturday, June 18, 2022, at 12:55 P.M., I attempted service at 1603 WILDFIRE LANE, FRISCO, TX 75033, U.S.A. There was no answer at the door so another business card was left with a note to call me. There were no vehicles present. I spoke with the next door neighbor, a white female in he 60s who stated Timothy Dungan no longer lives next door but his wife and kids do.

On Wednesday, June 29, 2022, at 11:20 A.M., After a skip trace was made, I attempted service at 6000 Columbus Ave., Apt. 1101, Plano, Texas 75024. I spoke with the Concierge, Cisco, who verified Timothy Dungan lives here. Cisco said Dungan's response was that he is currently out of town. I gave Cisco a business card and asked him to have Dungan call me.

On Tuesday, July 5, 2022, at 6:11 P.M., I attempted service at 6000 Columbus Ave., Apt. 1101, Plano, Texas 75024. I spoke with the concierge, Cisco, who stated Timothy Dungan was not home. I gave Cisco another business card and asked him to have Dungan call me ASAP regarding legal documents.

On Wednesday, July 6, 2022, at 7:25 P.M., I attempted service at 6000 Columbus Ave., Apt. 1101, Plano, Texas 75024. I spoke with the concierge, Nadine, who messaged Timothy Dungan. Timothy Dungan responded that he has already been served with the documents and he is out of town until the 20th. He said if I need to give them to him, he will contact me when he returns. I gave Nadine a business card and she sent my contact information to Timothy.

On Monday, July 11, 2022, at 11:35 A.M., I attempted service at 6000 Columbus Ave., Apt. 1101, Plano, Texas 75204. I spoke with the concierge, Kareem, who said he has a note that

Dungan is out of town until the 20th. I gave him a business card and told him to have Dungan call me.

On Friday, July 15, 2022, at 7:20 A.M., I attempted service at 6000 Columbus Ave., Apt. 1101, Plano, Texas 75204. I was not able to gain access to the apartment building, and the office was closed at the time of my attempt.”

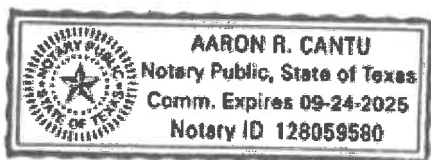


GUY CONNELLY PSC#2201 EXP. 09/30/22

Subscribed and Sworn to by **GUY CONNELLY**, before me, the undersigned authority, on this 20th day of July, 2022.



Notary Public in and for the State of Texas



Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Jackie Kish on behalf of Preston Kamin

Bar No. 24062817

jkish@grayreed.com

Envelope ID: 66509868

Status as of 7/20/2022 4:22 PM CST

Associated Case Party: Salt & Pepper Restaurants, Inc.

Name	BarNumber	Email	TimestampSubmitted	Status
Preston TKamin		pkamin@grayreed.com	7/20/2022 3:02:33 PM	SENT
Tyler J.McGuire		tmcguire@grayreed.com	7/20/2022 3:02:33 PM	SENT

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Case Contacts

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Jackie Kish		jkish@grayreed.com	7/20/2022 3:02:33 PM	SENT